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May 7, 2018

VIA ECF

Honorable Freda L. Wolfson, U.S.D.J.
United States District Court
District of New Jersey
Clarkson S. Fisher Building
& U.S. Courthouse
402 East State Street
Trenton, NJ 08608

Re: New Jersey Conservation Foundation v. Federal Energy Regulatory
Commission et al., Civil Action No. 3:17-cv-11991-FLW-TJB

Dear Judge Wolfson:

We are co-counsel with Morningside Heights Legal Services, Columbia Environmental Law Clinic, representing Plaintiff New Jersey Conservation Foundation in the above-referenced action. As Your Honor may be aware, on March 1, 2018, Defendant FERC moved to dismiss Plaintiff's Complaint pursuant to Federal Rule of Civil Procedure 12(b)(1). See ECF Nos. 7-1, 22 and 23. The motion has been fully briefed and is pending disposition by this Court. While Plaintiff's Opposition to the Motion to Dismiss includes a formal request for oral argument, Plaintiff respectfully reiterates that request in this letter as Plaintiff believes oral argument is necessary for two fundamental reasons.

First, Plaintiff's Complaint and Defendant's motion to dismiss present novel and complicated issues, the potentially far-reaching implications of which will impact landowners nationwide. *See, e.g., Ricci v. Chi. Mercantile Exch.*, 447 F.2d 713, 720 n.18 (7th Cir. 1971) ("The complicated issues . . . that would be presented will require the benefit of briefing] and argument before any determination [should] be attempted."); *Duka v. U.S. S.E.C.*, No. 15 CIV. 357 RMB SN, 2015

WL 5547463, at *1 (S.D.N.Y. Sept. 17, 2015) (finding subject matter jurisdiction to hear constitutional claims wholly collateral to statutory scheme after “the Court . . . heard helpful oral argument”); *Giles v. Phelan, Hallinan & Schmief, L.L.P.*, No. 11-6239, 2013 U.S. Dist. LEXIS 78161, at *2 (D.N.J. June 4, 2013) (“The Court heard oral argument . . . [because] [t]his case presents several novel issues in this Circuit . . .”).

Second, oral argument will provide a forum for the parties to elaborate on and clarify arguments, which may, in turn, assist Your Honor with resolving any questions related to the substantial constitutional issues before the Court. For these reasons, Plaintiff respectfully requests that the Court schedule oral argument on Defendants’ motions to dismiss. We thank Your Honor for your consideration of this matter. Should the Court require further information, we are available at the Court’s convenience.

Respectfully submitted,

/s/ Jennifer Danis

Eastern Environmental Law Center

/s/ Edward Lloyd

/s/ Susan Kraham

Columbia Environmental Law Clinic
Morningside Heights Legal Services

Counsel for Plaintiff

New Jersey Conservation Foundation